

HOUSE BILL REPORT

SB 5075

As Reported by House Committee On:
Business & Financial Services
General Government Appropriations & Oversight

Title: An act relating to the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

Brief Description: Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

Sponsors: Senators Fain, Hobbs, Benton, Litzow, Keiser and Tom; by request of Department of Financial Institutions.

Brief History:

Committee Activity:

Business & Financial Services: 3/3/11 [DP];
General Government Appropriations & Oversight: 3/15/11, 3/24/11 [DP].

Brief Summary of Bill

- Delays the expiration date of the Mortgage Lending Fraud Prosecution Account and related surcharge until June 30, 2016.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 12 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Pedersen, Rivers, Ryu and Stanford.

Staff: Jon Hedegard (786-7127).

Background:

In 2003 the Legislature created the Mortgage Lending Fraud Prosecution Account (Account), a specific fund to aid in the prosecution of consumer fraud in the mortgage lending process. The Account is administered by the Department of Financial Institutions (DFI). Funds for the Account are generated by a \$1 surcharge, assessed at the recording of a deed of trust. In

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order to defray the costs of collection, the county auditor may retain up to 5 percent of the funds collected. Once collected by a county, the funds must be transferred monthly to the State Treasurer who, in turn, must deposit the funds into the Account.

The DFI may use the Account to reimburse county prosecutors and/or the Office of the Attorney General (AGO) for costs related to the investigation and prosecution of mortgage fraud cases. Reimbursable items include salaries, training costs for staff, and expenses related to investigation and litigation. The Director of the DFI (Director) or the Director's designee may authorize expenditures from the Account. The DFI is required to consult with the AGO and local prosecutors in developing guidelines for the distribution of the funds, which are to be used to enhance law enforcement capabilities at both the state and local level.

The Account and the surcharge created in 2003 were originally set to expire on June 30, 2006. In 2006 the expiration of the Account and the surcharge were delayed until June 30, 2011.

Summary of Bill:

The expiration dates of the Mortgage Lending Fraud Prosecution Account and the surcharge are delayed until June 30, 2016.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on June 29, 2011.

Staff Summary of Public Testimony:

(In support) The Senate passed the bill unanimously. The House has passed the House version of the bill unanimously. All stakeholders support this bill. Supporters of the bill include the DFI, the mortgage lending industry, prosecutors, and law enforcement.

(Opposed) None.

Persons Testifying: Senator Fain, prime sponsor; and Deb Bortner, Department of Financial Institutions.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: Do pass. Signed by 11 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Blake, Fitzgibbon, Ladenburg, Moscoso, Pedersen, Van De Wege and Wilcox.

Staff: Michael Bennion (786-7118).

Summary of Recommendation of Committee On General Government Appropriations & Oversight Compared to Recommendation of Committee On Business & Financial Services:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on June 29, 2011.

Staff Summary of Public Testimony:

(In support) This bill preserves the program and the Mortgage Lending Fraud Prosecution Account (Account) that has existed since 2003 when it was originally proposed by the industry. In the last several years, 38 people have been prosecuted and \$2.5 million in damages have been awarded to 98 affected individuals and 39 financial institutions that were victims of mortgage fraud. Before the Account, mortgage fraud prosecution was almost nonexistent and this bill enables county prosecutors to continue their pursuit of cases of mortgage fraud.

(Opposed) None.

Persons Testifying: Deborah Bortner, Department of Financial Institutions.

Persons Signed In To Testify But Not Testifying: None.